

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Timothy A. Ellestad,

Plaintiff,

vs.

Jo Anne Barnhart, Commissioner of Social
Security Administration,

Defendant.

**ORDER ADOPTING
REPORT AND RECOMMENDATION**

Civil No. 3:05-cv-89

Plaintiff, Timothy A. Ellestad, sought judicial review of the final decision of the Commissioner of Social Security denying his application for disability insurance benefits. The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636 (2002), recommending that Plaintiff's Motion for Summary Judgment (Doc. #8) be granted and the Commissioner's final decision be remanded to the Administrative Law Judge for further findings. No party has filed an objection to this recommendation within the requisite time period. Local Rule 72.1(E)(4).

The Court has reviewed the Report and Recommendation, along with the entire file, and finds that the Magistrate Judge's position is correct. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the reasons set forth therein, Plaintiff's Motion for Summary Judgment is **GRANTED**, Defendant's Motion for Summary Judgment is **DENIED**, and

this action is **REMANDED** to the agency for further consideration in accordance with the Report and Recommendation.

IT IS SO ORDERED.

Dated this 29th day of September, 2006.

/s/ Ralph R. Erickson
Ralph R. Erickson, District Judge
United States District Court